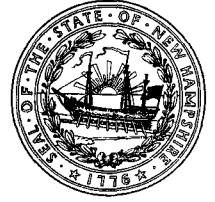




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Anthony Sciola and Michael Masiello
14 Kimball Avenue
Wenham, MA 01984-1108

Re: Watershed Management Bureau
Complaint File 1648

ADMINISTRATIVE ORDER
No. WD 06-036

August 9, 2006

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Anthony Sciola and Michael Masiello pursuant to RSA 485-A:15, I. This Administrative Order is effective immediately upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Anthony Sciola is an individual having a mailing address of 14 Kimball Avenue, Wenham, MA 019984-1108.
3. Michael Masiello is an individual having a mailing address of 14 Kimball Avenue, Wenham, MA 019984-1108.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485-A:15, I prohibits the introduction of bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, tires, old automobiles or parts thereof, trees, or similar litter into a surface water of the state or the placement of any of these materials onto the ice over such waters. RSA 485-A:14, II provides that for any violation of this section any authorized member or agent of the department of environmental services shall order immediate removal of material involved in the violation by the person responsible for the material in question.
2. Anthony Sciola and Michael Masiello are the owners of record of the shorefront property on Alton Bay located on East Side Drive off of Route 28A in Alton, more particularly described on Alton Tax Map 33 as Lot 8 (the "Property").
3. During the fall of 2005, an automobile of which the driver had lost control struck a boathouse on the Property, causing its collapse into Alton Bay in Lake Winnepesaukee.
4. On or about June 29, 2006, DES received a complaint alleging that the collapsed boathouse on the Property had not yet been removed from the waters of Alton Bay in Lake Winnepesaukee,

Alton Bay, and that the contents of or the structural materials comprising the collapsed boathouse may be adversely impacting the quality of Lake Winnepesaukee.

5. On July 6th, 2006, DES conducted a site inspection of the Property and observed that portions of the collapsed boathouse, including wood, glass, metal, and roofing products, were in the surface waters of Alton Bay in Lake Winnepesaukee.
6. The structural materials of the collapsed boathouse and associated building materials like glass, roofing products, and metal nails, are materials whose introduction into the surface waters of the State is prohibited by RSA 485-A:15, I.
7. Alton Bay in Lake Winnepesaukee is a surface water of the state within the meaning of RSA 485-A:2, XIV, and is classified as a Class B water pursuant to RSA 485-A:11.

D. DETERMINATION OF VIOLATIONS

1. Anthony Sciola and Michael Masiello have violated RSA 485-A:15, I, by allowing their collapsed boathouse to remain in, as well as deposit its contents within, a surface water of the state.

E. ORDER

Based on the above findings, DES hereby orders Anthony Sciola and Michael Masiello as follows:

1. **Immediately** cease depositing wastes into and adjacent to any surface water of the state, including the waters of Alton Bay of Lake Winnepesaukee that is adjacent to the Property.
2. **Within 15 days from the date of this Order**, remove from Alton Bay, the bay shoreline and other areas adjacent to Lake Winnepesaukee, all boathouse structural materials, boathouse contents, and other wastes as defined in RSA 485-A:2, XVI by careful demolition of materials and dispose of such waste in accordance with state law. During the removal, provide a non-pervious barrier around the demolition area to avoid the introduction of wastes into other areas of Alton Bay, Lake Winnepesaukee.
3. **Within 20 days from the date of this Order**, notify DES in writing that all wastes have been removed from Alton Bay, the bay shoreline and other areas adjacent to Lake Winnepesaukee, and properly disposed of and in accordance with this Order and state laws and regulations.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Jody Connor, Limnology Center Director

Watershed Management Bureau
DES Water Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-7894
e-mail: jconnor@des.state.nh.us


F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Anthony Sciola and Michael Masiello of the obligation to comply with the Order.

G. OTHER PROVISIONS


Please note that RSA 485-A:22 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Anthony Sciola and Michael Masiello remain obligated to comply with all applicable requirements. DES will continue to monitor the compliance of Anthony Sciola and Michael Masiello with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.



COPY

Harry T. Stewart, P.E., Director
Water Division



COPY

Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0587 6968

cc: ✓ Gretchen Hamel, Legal Unit Administrator
Public Information Officer, DES PIP Office
Jennifer Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Watershed Management Bureau, Complaint File 1648